

Subpart 32.11—Electronic Funds Transfer

SOURCE: 61 FR 45772, Aug. 29, 1996, unless otherwise noted.

32.1100 Scope of subpart.

This subpart provides policy and procedures for Government payment by electronic funds transfer (EFT).

32.1101 Policy.

(a) 31 U.S.C. 3332(e) requires payment by EFT in certain situations. The payment office, not the contracting officer, determines if payment is to be made by EFT. The payment office may determine not to require submission of EFT information in accordance with paragraph (j) of the contract clauses at 52.232-33 and 52.232-34.

(b) The Government will protect against improper disclosure of a contractor's EFT information. The clauses at 52.232-33 and 52.232-34 require the contractor to submit such information directly to the payment office.

(c) Contractors that do not have an account at a domestic United States financial institution or an authorized payment agent are exempted by 31 U.S.C. 3332 until January 1, 1999, from the requirement to be paid by EFT. The clause at 52.232-33 provides for the contractor to submit a certification to that effect directly to the payment office in lieu of the EFT information otherwise required by the clause.

(d) Payment by EFT is the preferred method of contract payment in normal contracting situations. However, in accordance with 31 CFR 208.3(c), certain classes of contracts have been authorized specific limited exceptions as listed in paragraphs (d) (1) through (4) of this section. In these situations, the method of payment shall be specified by the payment office, either through agency regulations or by specific agreement.

(1) Contracts awarded by contracting officers outside the United States and Puerto Rico shall provide for payment by other than EFT. However, payment by EFT is acceptable for this type of contract if the contractor agrees and the payment office concurs.

(2) Contracts denominated or paid in other than United States dollars shall

provide for payment by other than EFT.

(3) Classified contracts (see 4.401) shall provide for payment by other than EFT where payment by EFT could compromise the safeguarding of classified information or national security, or where arrangements for appropriate EFT payments would be impractical due to security considerations.

(4) Contracts executed by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13), or contracts executed by any contracting officer in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies, shall provide for payment by other than EFT where (i) EFT payment is not known to be possible, or (ii) EFT payment would not support the objectives of the operation. Contracting officers predesignated to perform contracting duties in the event of these operations shall include coordinated plans for payment arrangements as part of the pre-contingency contract operations planning.

32.1102 Assignment of claims.

The use of EFT payment methods is not a substitute for a properly executed assignment of claims in accordance with subpart 32.8. EFT information which shows the ultimate recipient of the transfer to be other than the contractor, in the absence of a proper assignment of claims, is considered to be incorrect EFT information within the meaning of the "Suspension of Payment" paragraphs of the EFT clauses at 52.232-33 and 52.232-34.

32.1103 Contract clauses.

(a) Unless instructed otherwise by the cognizant payment office or agency guidance, the contracting officer shall insert the clause at 52.232-33, Mandatory Information for Electronic Funds Transfer Payment, in all solicitations and resulting contracts which (1) will not be paid through use of the Governmentwide commercial purchase card (see 13.103(e)); and (2) are not otherwise excepted in accordance with 32.1101(d). The clause may be inserted in other contracts if the contractor requests